

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7115

BILL NUMBER: HB 1232

DATE PREPARED: Mar 27, 2002

BILL AMENDED: Mar 14, 2002

SUBJECT: Restructuring of Protective Orders.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill has the following provisions:

(A) It restricts the issuance of protective orders to cases of domestic or family violence, stalking, or sex offenses. It allows a workplace violence restraining order to be issued for the protection of an employee.

(B) It provides that a law enforcement officer responding to the scene of a crime involving domestic or family violence may confiscate firearms, ammunition, and deadly weapons.

(C) It removes the requirement that an address confidentiality program participant live in Indiana. It allows an emancipated minor to participate in the program. It provides that victims of sexual assault and stalking may participate in the program. It allows participants who obtain a name change to continue participating in the program but requires the participants to provide documentation of the name change to the office of the attorney general. It prohibits the Attorney General from disclosing identifying information, unless: (1) requested by a law enforcement agency; or (2) directed by a court order.

(D) It makes it a Class D felony if a child dies as a result of reckless supervision of the child by a child care worker.

(E) It repeals provisions relating to renewal of program participation following termination of a protective order. It repeals a requirement that a program participant provide a copy of a renewed protective order to continue program participation. It repeals certain provisions concerning protective orders.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) *Conferring civil immunity to the Attorney General's office and its agents from damages for conduct within the scope of the Address Confidentiality Program:* This provision could decrease the number of lawsuits filed against the state. The specific fiscal impact of this provision is indeterminable. Any cost savings will depend on the number of lawsuits that would have been filed against the state.

Penalty Provision: This bill increases the penalty for certain violations involving invasion of privacy from

a Class A misdemeanor to a Class D felony. It also makes it a Class D felony if a child dies as a result of reckless supervision of the child by a child care worker.

State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *(Revised) Including Victims of Stalking and Sexual Assault As Eligible for Protective Orders:* Allowing victims of sexual assault and stalking to have protective orders free of charge ensures that the state of Indiana would remain eligible for federal monies from the Violence Against Women Act. Indiana received \$2,330,000 from this grant in 2001.

Penalty Provision: More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Court Fee Revenue: If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed. 70% of the filing fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: *(Revised) Summary:* This bill may impact the total number of restraining orders issued annually. This bill narrows the types of situations in which a restraining/protective order may be issued. This may result in fewer cases involving these types of orders being heard. Staff indicate that this may not reduce the total caseload due to a shift of caseload from restraining/protective orders to other types of cases. This should have minimal fiscal impact.

Background: A study conducted by the Indiana Justice Center in 2001 reviewed protective orders in Indiana. Some of the findings are as follows. There are currently over a dozen different types of protective, restraining, or no-contact orders available in the state of Indiana. These orders range from no-contact orders in CHINS, delinquency, and criminal proceedings to protective and restraining orders issued in paternity, dissolution, and separation cases. Indiana's civil protective order statute, IC 34-26-2-1 *et seq.*, does not limit the availability of relief to cases involving domestic or family violence to protective orders; other remedies exist for disputes between neighbors, co-workers, and others. A non-scientific 1999 study of 300 protective order case files in Marion County, Indiana, revealed that roughly half of the cases were *not* domestic in nature.

Penalty Provision: If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: *Penalty Provision:* Court fees for both misdemeanors and felonies are \$120.

Court Fee Revenue: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Department of Correction, Office of the Attorney General.

Local Agencies Affected: Trial courts, city and town courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs Association; Protective Order Committee, Judicial Conference of Indiana, Indiana Judicial Center, Indiana Civil Protective Order Act Draft, November 2, 2001. Catherine O'Connor Criminal Justice Institute; Laura Berry, Executive Director, Indiana Coalition Against Domestic Violence; Jennifer Thuma, Office of the Attorney General.